

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**JACK LEWIS,**

Petitioner,

v.

**CIVIL ACTION NO. 3:07-CV-13  
(BAILEY)**

**GILMER FEDERAL CORRECTIONAL INSTITUTION,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Standing Order entered on March 24, 2000, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R & R on August 20, 2007 [Doc. 18]. In that filing, the magistrate judge recommended that this Court dismiss as moot the petitioner's application under 28 U.S.C. § 2241 [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1);

**Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due September 4, 2007 [Doc. 18], pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). Neither party filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

In this case, the petitioner requested that he be placed in a Community Correctional Center ("CCC") for the remainder of his sentence. In 2001, the petitioner was sentenced by the United States District Court for the Western District of New York to a 120 month term of imprisonment for violating 26 U.S.C. § 5861(d) and 5871, Firearms Registrations and Transfer Record. The petitioner's projected release date via good conduct time was June 5, 2007. Magistrate Judge Seibert conducted an investigation into the petitioner's whereabouts, and discovered that he had in fact been released from the custody of the Bureau of Prisons on June 5, 2007. Accordingly, inasmuch as the petitioner's request for relief was an order directing his placement in a halfway house, and the petitioner is no longer even in the custody of the BOP, this case is now moot.

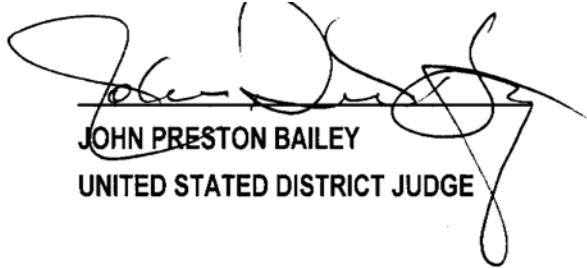
Therefore, upon careful review of the R & R, it is the opinion of this Court that the **Magistrate Judge's Report and Recommendation** [Doc. 18] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Court hereby **DISMISSES as moot** the petitioner's application under 28 U.S.C. § 2241 [Doc. 1] and **ORDERS** it **STRICKEN** from the active docket of this Court. As a final matter, the respondent's Motion to Dismiss [Doc. 8] is hereby **DENIED as moot**.

It is so **ORDERED**.

The Clerk is directed to mail true copies of this Order to all counsel of record and

the *pro se* petitioner.

**DATED:** October 2, 2007.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE